

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN SENATE MAY 17, 2006

AMENDED IN SENATE APRIL 4, 2006

**SENATE BILL**

**No. 1360**

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**Introduced by Senator Kehoe**  
*(Coauthor: Assembly Member Lieu)*

February 21, 2006

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An act to amend Section 27255 of the Government Code, and to add Article 3 (commencing with Section 5096.520) to Chapter 1.695 of Division 5 of the Public Resources Code, relating to resource conservation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1360, as amended, Kehoe. County records: conservation easement registry.

(1) Existing law requires the county recorder in each county to develop and maintain, within the existing indexing system, a comprehensive index of conservation easements on land in that county. Existing law also requires the county recorder, with respect to conservation easements affecting property within the county, recorded on or after January 1, 2002, to include the conservation easement in the index, if the document is properly labeled, or if a Notice of Conservation Easement is also recorded. Existing law authorizes specified parties to conservation easements to fill out and record a Notice of Conservation Easement for conservation easements recorded prior to January 1, 2002. The Notice of Conservation Easement states that no fee is required for recording the document

pursuant to a provision exempting state and local officials from such fees.

This bill would delete from the Notice of Conservation Easement that statement that no fee is required by that provision. The bill would require the county recorder to send a copy of the notice, within 30 days of its recording, to the Secretary of the Resources Agency. By imposing a new duty on county recorders, the bill would create a state-mandated local program.

Existing law requires the standard fee charged by the county recorder for recording the conservation easement document to include funds to cover the costs associated with indexing the document.

This bill instead would authorize the county recorder to include in that fee, funds to cover the costs associated with indexing the document and forwarding a copy of the Notice of Conservation Easement to the Secretary of the Resources Agency.

(2) Existing law authorizes various agencies to acquire land for purposes related to conservation. Existing law specifies certain requirements and procedures for the acquisition of conservation lands.

This bill would require the Secretary of the Resources Agency to establish a central public registry of all conservation easements, as defined, all open-space easements, including, but not limited to, those easements held or required by the state, or purchased on or after January 1, 2000, with state grant funds provided by any agency, department, or division of the state. The bill would provide that the registry shall be available for use by the general public, on or before January 1, 2009. The bill would require the registry to include, and the secretary to provide on the Internet, information on these conservation easements, as specified.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature finds and declares all of the  
2 following:

3     (a) Conservation easements and agricultural conservation  
4 easements are a valuable tool and a cost-effective way to protect  
5 the state's natural resources.

6     (b) It is important to ensure that the public has information on  
7 how moneys are spent by state agencies when purchasing  
8 easements for the preservation and protection of critically needed  
9 conservation and agricultural lands.

10    (c) Information regarding easements should be disseminated in  
11 a readily and easily available manner.

12    (d) A central public registry of conservation easements,  
13 open-space easements, and agricultural conservation easements  
14 would provide information that would lead to better conservation  
15 and resource planning among state agencies, local governments,  
16 nonprofit organizations, and the public.

17    SEC. 2. Section 27255 of the Government Code is amended  
18 to read:

19    27255. (a) The county recorder in each county shall develop  
20 and maintain, within the existing indexing system, a  
21 comprehensive index of conservation easements and Notice of  
22 Conservation ~~Easements~~ *Easement* on land within that county.  
23 The conservation easement index developed and maintained  
24 pursuant to this subdivision shall include all conservation  
25 easements recorded on and after January 1, 2002.

26    (b) For the purposes of this section, "conservation easement"  
27 means any limitation in a recorded instrument that contains an  
28 easement, restriction, covenant, condition, or offer to dedicate,  
29 which is or has been executed by or on behalf of the owner of the  
30 land subject to that limitation and is binding upon successive  
31 owners of the land, and the purpose of which is to retain land  
32 predominantly in its natural, scenic, historical, agricultural,  
33 forested, or open-space condition. "Conservation easement"  
34 includes a conservation easement as defined in Section 815.1 of  
35 the Civil Code, an open-space easement as defined in Section  
36 51075 of this code, and an agricultural conservation easement as  
37 defined in Section 10211 of the Public Resources Code.

(c) On and after January 1, 2002, when a county recorder records a new conservation easement affecting property within the county, he or she shall include the easement in the index developed and maintained pursuant to subdivision (a), if the document containing the easement is entitled “Conservation Easement,” or the following document is properly filled out by the submitter, and recorded at the same time, or at a later date:

Recording Requested by and  
When Recorded Return To to:

NOTICE OF CONSERVATION EASEMENT
<p>The undersigned hereby gives notice that a Conservation Easement was recorded in the _____ County Recorder’s Office on _____ and recorded as Document Number _____.</p> <p>The grantors and grantees of the conservation easement were</p> <p>Grantors _____</p> <p>Grantees _____</p> <p><input type="checkbox"/> Mark here, if state funds were used in the purchase of the easement, the state was a party to the purchase, or the state holds an interest in the property.</p> <p>I declare under penalty of perjury that the above statement is true and correct.</p> <p>Signed; _____</p> <p>Dated; _____</p> <p>The recorder shall forward a copy of this notice, within 30 days of its recording, to the Secretary of the Resources Agency, 1416 Ninth Street, Suite 1311, Sacramento, CA 95814.</p> <p>THIS NOTICE IS FOR INDEXING PURPOSES ONLY; AND DOES NOT, BY ITSELF, CONSTITUTE A CONSERVATION EASEMENT</p>

(d) In order to include conservation easements recorded prior to January 1, 2002, the comprehensive index of conservation

1 easements and “Notice of Conservation ~~Easements~~ *Easement*”  
2 developed and maintained pursuant to subdivision (a), any parties  
3 to conservation easements, including, but not limited to, the  
4 counties, cities, recreation and park districts or agencies, state  
5 conservancies, state agencies, the California Coastal  
6 Commission, land trusts, and nonprofit organizations; may fill  
7 out and record a Notice of Conservation Easement pursuant to  
8 subdivision (c) for each previously recorded conservation  
9 easement, in the county in which the affected real property is  
10 located.

11 (e) Pursuant to Section 27361, the standard fee charged by the  
12 county recorder for recording the conservation easement  
13 document may include funds to cover the costs associated with  
14 indexing the document and forwarding a copy of the Notice of  
15 Conservation Easement to the Secretary of the Resources Agency  
16 as required in the notice.

17 (f) It is the intent of the Legislature that nothing in this section  
18 shall be construed to require a county recorder to develop and  
19 maintain an index separate from the existing indexing system,  
20 and that the conservation easement index be established by using  
21 existing resources.

22 SEC. 3. Article 3 (commencing with Section 5096.520) is  
23 added to Chapter 1.695 of Division 5 of the Public Resources  
24 Code, to read:

25  
26 Article 3. Conservation Easement Registry  
27

28 5096.520. (a) The Secretary of the Resources Agency shall  
29 establish a central public registry of all conservation easements,  
30 including, but not limited to, those held or required by the state  
31 or purchased on or after January 1, 2000, with state grant funds  
32 provided by any agency, department, or division of the state. In  
33 constructing the registry, the Resources Agency shall draw upon  
34 the comprehensive index of conservation easements and notices  
35 of conservation easement provided by county recorders pursuant  
36 to Section 27255 of the Government Code, the Department of  
37 General Services’ property inventory, and other information held  
38 by a state agency, department, or division.

39 (b) For the purposes of this section, “conservation easement”  
40 means any limitation in a recorded instrument that contains an

1 easement, restriction, covenant, condition, or offer to dedicate,  
2 that has been executed by or on behalf of the owner of the land  
3 subject to that limitation and is binding upon successive owners  
4 of the land, and the purpose of which is to retain land  
5 predominantly in its natural, scenic, historical, agricultural,  
6 forested, or open-space condition. "Conservation easement"  
7 includes a conservation easement as defined in Section 815.1 of  
8 the Civil Code, an open-space easement as defined in Section  
9 51075 of the Government Code, and an agricultural conservation  
10 easement as defined in Section 10211.

11 (c) For a conservation easement held or required by the state  
12 or purchased on or after January 1, 2000, with state funds  
13 provided by any agency, department, or division of the state, the  
14 registry shall include all of the following information on each  
15 conservation easement listed in the registry:

- 16 (1) The recordation number assigned by the county recorder.
- 17 (2) The purpose of the easement.
- 18 (3) The location of the easement, identified by county and  
19 nearest city.
- 20 (4) The identity of the easement holder.
- 21 (5) The size of the easement in acres.
- 22 (6) The amount in dollars, if any, of the state's contribution  
23 towards the easement transaction.
- 24 (7) The date the easement transaction was completed.
- 25 (8) A copy of the easement.

26 (d) For all conservation easements not described in  
27 subdivision (c), the registry shall include, for each conservation  
28 easement listed in the registry, a copy of the Notice of  
29 Conservation Easement provided by a county recorder pursuant  
30 to Section 27255 of the Government Code.

31 (e) On or before January 1, 2009, the Secretary of the  
32 Resources Agency shall make the registry available for use by  
33 the general public. Information pertaining to paragraphs (1) to  
34 (7), inclusive, of subdivision (c) shall be provided by the  
35 Secretary of the Resources Agency on the Internet. The registry  
36 shall be updated biennially.

37 SEC. 4. No reimbursement is required by this act pursuant to  
38 Section 6 of Article XIII B of the California Constitution because  
39 a local agency or school district has the authority to levy service  
40 charges, fees, or assessments sufficient to pay for the program or

- 1 level of service mandated by this act, within the meaning of
- 2 Section 17556 of the Government Code.

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